HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 7788 of 2006

Between:
Dasari Suraiah and others.

..Petitioners

And

Jakkampudi Gram Panchayath,
Vijayawada rural mandal,
Krishna district,
Rep., by its Sarpanch and others.

..Respondents.

: O R D E R:

Counsel for the petitioners : Shri T. Jagdish
Counsel for respondent No.2 : Government Pleader for Mines and Geology

Counsel for respondent No.3 : Government Pleader for Home.
Counsel for respondent No.5 : Shri C.V.R. Rudra Prasad.

October 16, 2006:

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Per G.S. Singhvi, CJ

Vice-President of Gram Panchayat, Jakkampudi, Vijayawada Rural, six Panchayat members and one resident of Shabad Village (hamlet of Jakkampudi Revenue Village) have jointly filed this petition in public interest for quashing the consent letter issued by the President and Secretary of Jakkampudi Gram Panchayat in favour of respondent No.4, Lakkamraju Pundareeka Varada Varma for grant of lease by the Mines and Geology Department. They have further

prayed for restraining Assistant Commissioner of Police-I, Vijayawada from providing protection to respondent No.4 in digging gravel from the hillock situated in Revenue Survey No.88 of Shabad Village.

In the affidavit filed by petitioner No.8, Lakkamsetti Venkateswara Rao, it has been averred that all the petitioners are residents of Shabad (hamlet of Jakkampudi Revenue Village) where Gram Panchayat office is located. According to the deponent, Shabad is divided by a small hillock from the main revenue village namely, Jakkampudi. The two villages are joined by a road existing at the foot of hillock in Revenue Survey No.88. The deponent has further averred that in the past an attempt was made by some unscrupulous real estate developers to dig up the top soils of the canopy of the hillock, which was resisted by the villagers and now the President of the Gram Panchayat and its Secretary have manipulated grant of consent for issue of mining lease in favour of respondent No.4, which would enable the latter to destroy the hillock.

In the counter affidavit filed by Sri G.Ramachandra Rao, Assistant Director of Mines and Geology (respondent No.2), it has been stated that Shabad village is situated at the terminal point of the leased area; that the village is surrounded by small hillocks covered with red soil at the top and along the slope of the hillock; that it is not correct to say that the road all along the foot of the hillock is the only pathway and that there exists four other ways to come out of the village. The deponent has further averred that the lease was granted by Deputy Director of Mines and Geology, Kakinada in favour of the President of M/s.Konduru Adda Road Society, D.Suryakantha Rao over an extent of 9.000 hectares for a period of five years from 17-2-2004 to 16-2-2009 and the lessee is conducting quarry operations after paying the seigniorage fee. According to Sri Ramachandra Rao, the distance between the village and the leased area is 50 meters and the residents are not going to be affected by quarry operations because the hillock is separated from the road by a

gorge.

During the pendency of the writ petition, M/s.Konduru Adda Road Society Quarry Workers Labour Contract Co-operative Society Limited was impleaded as respondent No.5. The added respondent has filed affidavit of its President, D.Suryakantha Rao, who has denied the allegations contained in the writ petition. Petitioner No.8 has filed reply affidavit along with large number of documents and photographs of the site.

By an order dated 20th June, 2006, the Court appointed Sri K. Durga Prasad and Sri S. Maruthi Rao, Advocates as Court Commissioners and directed them to submit a report after making on-the spot inspection. In furtherance of the Court's order, learned Advocate Commissioners inspected the site and submitted exhaustive report dated 31-07-2006. Copies of the report have been made available to the learned counsel for the parties.

On 15-9-2006, learned counsel for respondent No.5 sought time to furnish an undertaking of his client that no quarry operations will be undertaking in the area shown in photographs 12 to 15 annexed with the Court Commissioners' report.

We have heard learned counsel for the parties. In our opinion, it is not necessary to decide the writ petition by recording a detailed order because Sri C.V.R.Rudra Prasad, learned counsel appearing for respondent No.5 reiterated the undertaking given by his client and further submitted that his client will not undertake quarry operations in the area shown in the photographs produced by the petitioners at page Nos.21 to 23 of the material papers.

In view of the above, the writ petition is disposed of with the following directions:

i) The Mines and Geology Department should not give any lease for quarrying operations in respect of the area shown in photographs Nos.12 to 15 annexed to the Court Commissioners' report and the photographs shown at page Nos.20, 21 and 22 in the material papers

filed by the petitioners.

ii) Respondent No.5 and its representatives shall not undertake any quarrying operations in the area depicted in the aforesaid photographs.

iii) If respondent No.5 or the officials of Mines and Geology Department violate the undertakings given before the Court /directions given by it, then the petitioners shall be free to file miscellaneous petition for further directions.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J.

16-10-2006

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